

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 387

Introduced by Senator Ducheny

February 17, 2005

An act to amend Section 7043 of, ~~and to add Section 7046 to,~~ the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 387, as amended, Ducheny. New River.

Existing law provides that specified law relating to the maintenance of flow in streams shall not prevent the use or enlargement of any natural channel for municipal purposes or for use in connection with any artificial system of drainage, irrigation, or flood control that does not cause the flow of water in the channel at the intake of the canal to be less than the quantity of water the owners and appropriators have the right to divert into the intake.

This bill would include sewage treatment and pollution prevention among those listed uses, and, *only as applied to the New River in Imperial County*, would define the phrase "use or enlargement of any natural channel for municipal purposes" to include the encasement and piping of the New River ~~through the City of Calexico~~ to protect human health and the natural environment.

~~The bill would find and declare that the New River in Imperial County is an urban creek, as defined. The bill would authorize the City of Calexico to proceed in accordance with specified law with a comprehensive project for the cleanup, encasement and underground piping, and pollution treatment of the New River as it flows through that city, for the purposes of protecting human health and the environment.~~

The bill would make a finding and declaration of the Legislature regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7043 of the Water Code is amended to
2 read:

3 7043. (a) No act authorized in this chapter shall prevent the
4 use or enlargement of any natural channel for municipal purposes
5 or for use in connection with any artificial system of drainage,
6 irrigation, sewage treatment and pollution prevention, or flood
7 control that does not cause the flow of water in the channel at the
8 intake of the canal to be less than the quantity of water the
9 owners and appropriators have the right to divert into the intake.

10 ~~(b) As used in this section, “use or enlargement of any natural~~
11 ~~channel for municipal purposes” shall include, but is not limited~~
12 ~~to, the encasement and piping of the New River through the City~~
13 ~~of Calexico to protect human health and the natural environment.~~

14 SEC. 2. Section 7046 is added to the Water Code, to read:

15 7046. (a) ~~The Legislature finds and declares that the New~~
16 ~~River in Imperial County is an urban creek as defined in~~
17 ~~subdivision (c) of Section 7048.~~

18 ~~(b) For the purposes of protecting human health and the~~
19 ~~environment, the City of Calexico may proceed in accordance~~
20 ~~with this code with a comprehensive project for the cleanup,~~
21 ~~encasement and underground piping, and pollution treatment of~~
22 ~~the New River as it flows through that city.~~

23 ~~(b) Only as applied to the New River in Imperial County, as~~
24 ~~used in this section, “use or enlargement of any natural channel~~
25 ~~for municipal purposes” includes, but is not limited to, the~~
26 ~~encasement and piping of the New River to protect human health~~
27 ~~and the natural environment.~~

28 ~~SEC. 3.~~

29 SEC. 2. The Legislature finds and declares that, because of
30 the unique circumstances applicable only to the City of Calexico
31 and the New River in Imperial County, a statute of general
32 applicability cannot be enacted within the meaning of

1 subdivision (b) of Section 16 of Article IV of the California
2 Constitution. Therefore, this special statute is necessary.

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